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# Public Meeting

## Site-Specific Zoning Amendment

6954 6<sup>th</sup> Concession Road

(Applicant: Victor and Deborah Anber)

March 28, 2022

# Purpose of Meeting

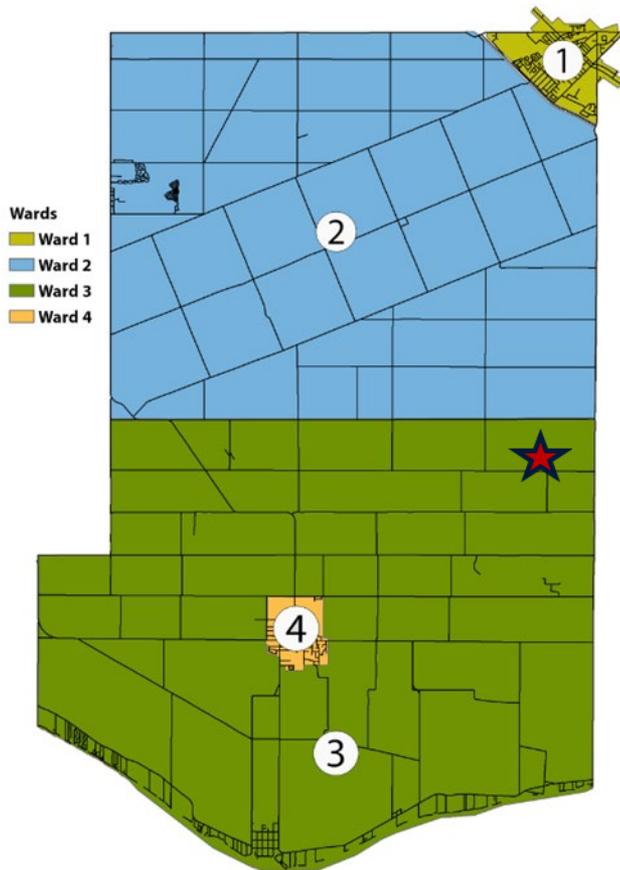
At this statutory Public Meeting, Council hears representations from the Public regarding the merits and concerns related to the application for site specific zoning amendment.

**Council does not make a decision at this time.**

# Subject Lands

ZBA-03-22

# ZBA-03-22: Subject Lands



## **Location:**

North side of Concession Road 6

## **Official Plan Designation:**

Agricultural

## **Existing zoning:**

Agricultural District 1.1, general agriculture and farm production support activities

Natural Heritage Overlay affecting portion of the property

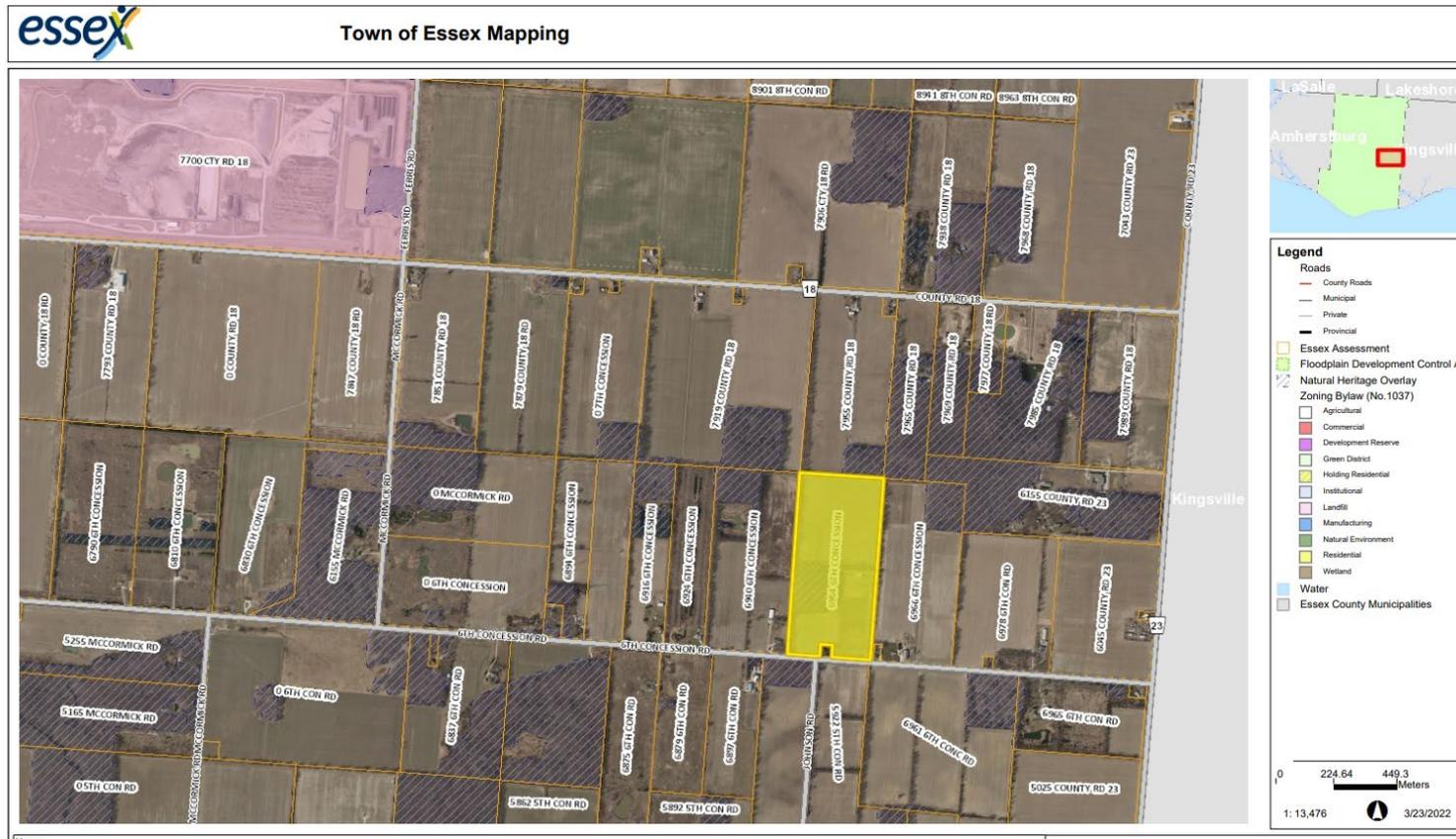
## **Site Specific Zoning Provisions:**

The storage of fireworks is an additional permitted use until May 6, 2022 (Bylaw Amendment adopted in 2019)

 Subject lands

# ZBA-03-22: Subject Lands

Subject Lands are in a Prime Agricultural Area



# ZBA-03-22: Subject Lands

6<sup>th</sup> Concession Looking West from the Property Entrance



# ZBA-03-22: Subject Lands

6<sup>th</sup> Concession Looking East from the Property Entrance



# ZBA-03-22: Subject Lands

Dwelling at 6950 6<sup>th</sup> Concession surrounded by Subject Lands



# ZBA-03-22: Subject Lands



- 21 Hectares of productive farmland
- 2.8 Hectare Woodlot
- 28 shipping containers
  - 22 contain fireworks
  - 6 contain equipment and personal items

# ZBA-03-22: Subject Lands

West side of Subject Lands identifying Natural Heritage Feature



# ZBA-03-22: Subject Lands

East side of Subject Lands at property entrance





# Proposed Zoning Change

ZBA-03-22

# ZBA-03-22: Proposed Zoning Change

To permit:

- The permanent storage of **professional display fireworks** in the existing shipping containers

The applicants are the proprietors of K & H Distributing Fireworks in Tecumseh, Ontario

# ZBA-03-22: Proposed Zoning Change

## K & H Distributing:

- Have been licensed by the Federal Ministry of Natural Resources for several years (Confirmed through correspondence with Federal Inspector)
- Wholesaler of consumer fireworks with over 30 years of experience in planning professional fireworks and pyrotechnic displays
- Provide display fireworks training and supervision
- Members of the Canadian National Fireworks Association and Canadian Pyrotechnic Council

# ZBA-03-22: Proposed Zoning Change

## K & H Distributing Market Service Area and Economic Impact:

- Dominates in the Southwestern Ontario Area, conducting 75% of the fireworks displays in the region and 90% in Essex County
- Employ over 60 seasonal employees

# ZBA-03-22: Proposed Zoning Change

## Reasons for Zoning Change:

- Existing operation in Tecumseh is located near a school and lands designated for residential development, which precludes storage of their products at that site due to Federally-regulated minimum distance requirements.

# ZBA-03-22: Proposed Zoning Change

## Reasons for Zoning Change:

- In 2019, applicants were granted a temporary zoning amendment to allow for the storage of the fireworks and provide the applicants with reasonable opportunity to relocate the storage activity
- Temporary zoning amendment will expire on May 6, 2022

# ZBA-03-22: Proposed Zoning Change

## Reasons for Zoning Change:

- Limits on gatherings due to Covid 19 have had an impact on business operations relating to professional display fireworks
- Due to restrictions, the applicants were not able to reduce the quantity of professional fireworks in order to find a site with a lesser distance requirement (distance is tied to quantity)

# ZBA-03-22: Proposed Zoning Change

## Reasons for Zoning Change:

- Cannot find a site that is affordable or available for purchase that would legally meet the federal requirements for fireworks storage or the specifications

# Policy Considerations

ZBA-03-22

# ZBA-03-22: Proposed Zoning Change

- In prime agricultural areas, permitted uses are limited to the following:

- Agricultural
- Agricultural-Related Uses
- On-farm Diversified Uses

Other uses must be directed to settlement areas or rural lands, unless they can be justified in accordance with **Policy 2.3.6** of the Provincial Policy Statement (PPS, 2020)

# ZBA-03-22: Policy Considerations

## Provincial Policy Statement (PPS) 2020

### **Policy 2.3.6:**

Planning authorities may permit limited, *non-residential uses* in prime agricultural areas, if all the following are demonstrated:

- The land does not comprise a Specialty Crop Area
- Proposed Use Complies with Minimum Distance Separation Formulae
- There is an identified need within the Planning Horizon for additional land to accommodate the proposed use
- Alternative locations have been evaluated, and,
  - i. There are no reasonable alternative locations which avoid prime agricultural areas, and,
  - ii. There are no reasonable alternative locations in prime agricultural areas with lower priority agricultural lands

# ZBA-03-22: Policy Considerations

## Policy Evaluation

- The land **does not** comprise a Specialty Crop Area
- Proposed use **complies** with Minimum Distance Separation Formulae
- There is an **identified need** within the Planning Horizon for additional lands to accommodate the proposed use:
  - The storage of fireworks is considered an Industrial Use
  - The industrial real estate market in Southwestern Ontario, from Waterloo to Windsor, is nearly full and far below national averages (3.5 percent) (*Another Year, Another Record*, CBRE, 2021)
  - Warehouse space has become a rarer commodity across Canada. The shortage has become “critical” in the region (*Schmidt*, 2022)
  - A Growth Projections report to include county-wide population, housing and employment projections and municipal allocations is being prepared by the County of Essex (final report expected in Spring 2022)

# ZBA-03-22: Policy Considerations

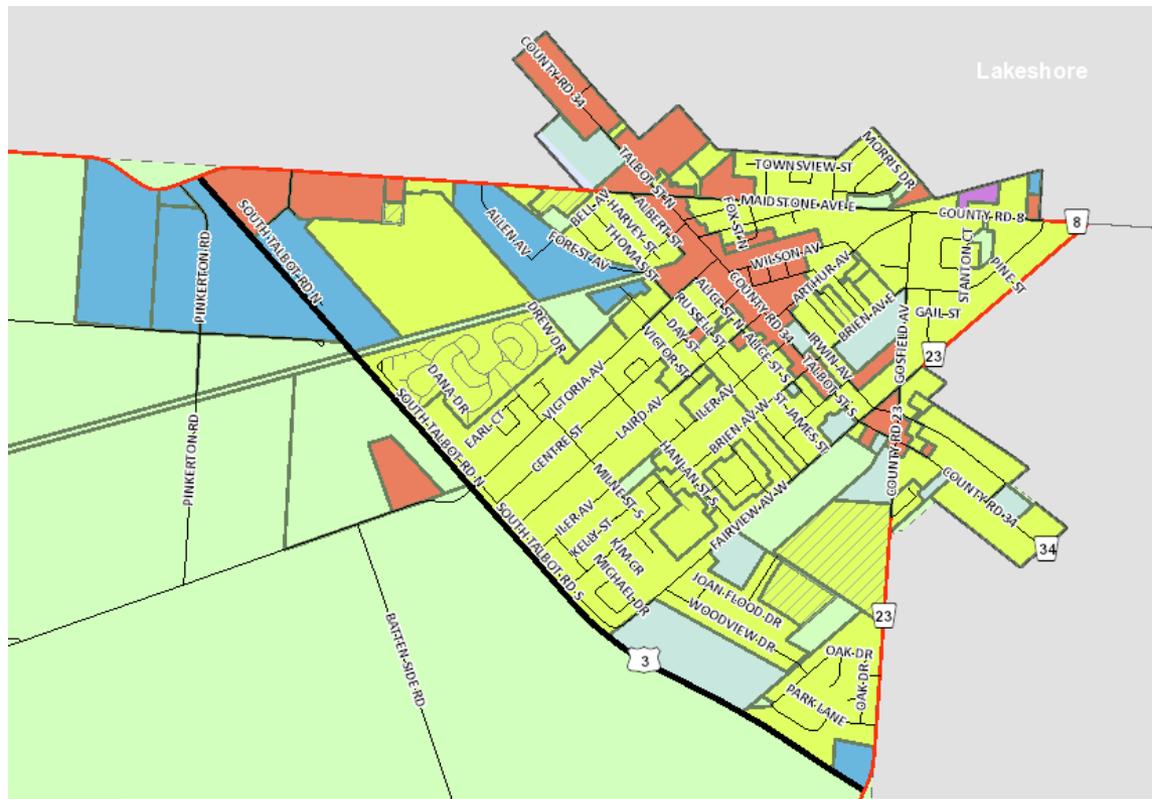
## Policy Evaluation

- Alternative locations have been evaluated, and,
  - i. Reasonable alternative locations which avoid prime agricultural areas have been difficult to secure:
    - Applicant has provided a list of 17 potential sites in Windsor Essex through Chatham-Kent that they have considered since 2019
    - Most sites **did not** meet the minimum distance required by the Federal Government and were therefore, unsuitable for the proposed use
    - Asking price for Industrial property considered within the Harrow Settlement Area had increased by 50 % making it unaffordable for applicant who cannot get financing on vacant land to build a warehouse

# ZBA-03-22: Policy Considerations

## Industrial Land in the Essex Centre Settlement Area

- Being held for future industrial development, not yet in development process (Pinkerton Sideroad)
- Not appropriate due to neighbouring residential uses



# ZBA-03-22: Policy Considerations

## Policy Evaluation

- i. Reasonable alternative locations in prime agricultural areas with lower priority agricultural lands are difficult to secure:
  - All agricultural lands within the Town of Essex are prime agricultural lands

# ZBA-03-22: Policy Considerations

## Section 3.0 of the PPS “Protection Public Health and Safety”

### 3.1.8:

Development shall generally be directed to areas outside of lands that are unsafe for development due to the presence of *hazardous forest types for wildland fire*

*Hazardous forest types for wildland fire* means forest types assessed as being associated with the risk of high to extreme wildland fire using risk assessment tools established by the Ontario Ministry of Natural Resources and Forestry, as amended from time to time

# ZBA-03-22: Policy Considerations

Section 3.0 of the PPS “Protection Public Health and Safety”

3.1.8:

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*Hazardous forest types for wildland fire* means forest types assessed as being associated with the risk of high to extreme wildland fire using risk assessment tools established by the Ontario Ministry of Natural Resources and Forestry. These include: high density coniferous forests.

# ZBA-03-22: Policy Considerations

## Forest Types of High to Extreme Wildland Fire Risk (source: *Wildland Fire Risk Assessment and Mitigation Reference Manual*)

### APPENDIX 2

#### Sample images of hazardous forest types for wildland fire:

The following images illustrate examples of hazardous forest types for wildland fire (high- to extreme-risk), including various forest conditions and species composition.

#### Species composition of high- and extreme-risk forests



(Photo courtesy of Ministry of Natural Resources and Forestry)

**Figure A2-1.**  
Spruce forest with dense conifer vegetation arrangement and ladder fuels



(Photo courtesy of Ministry of Natural Resources and Forestry)

**Figure A2-2.**  
Dense conifer-dominant vegetation arrangement and ladder fuels



(Photo courtesy of Ministry of Natural Resources and Forestry)

**Figure A2-3.**  
Dense boreal spruce forest



(Photo courtesy of Ministry of Natural Resources and Forestry)

**Figure A2-4.**  
Dense spruce forest (bird's eye view)

# ZBA-03-22: Policy Considerations

- Trees within the existing woodlot on the subject lands were marked in 2015 for the purposes of improving the health of the stand and increasing tree quality and timber value and maintaining a good diversity of species throughout the forest.
- Tree marking was also conducted to remove poor quality trees and enhance natural regeneration.
- The woodlot consisted of trees species identified as primarily oaks, hickory, maple, basswood and elm.
- The existing woodlot is not considered a hazardous forest type

# Agency and Public Comments

ZBA-03-22

# ZBA-03-22: Agency and Public Comments



- Circulated all property owners within 120 metre radius
- Seven (7) Comments as of Thursday March 2, 2022

# ZBA-03-22: Agency and Public Comments

- Two (2) letters of support
  - Outlined the applicant's level of detail and his emphasis on health and safety when setting up displays
  - Recognized applicant's knowledge of Federal and international regulations respecting fireworks
  - Emphasized the need to support local businesses
  - Emphasized the importance of K & H Distributing to the local economy and entertainment sector

# ZBA-03-22: Agency and Public Comments

- Two (2) letters of opposition from neighbouring property owners
  - Concerns with storage of fireworks as a continuous hazard
  - Concerns with impact on property value and the woodlot
  - Concerns with potential for soil and water contamination (area serviced by wells)
  - Objection to permanent rezoning

# ZBA-03-22: Agency and Public Comments

- Manager, Senior Inspector of Explosive, Natural Resources Canada
  - Property has been licensed for several years for the storage of fireworks in several storage containers
  - Site in compliance with all Federal regulations including distance requirements to inhabited dwellings and public roads
  - No advantage to being close to woodlot. Likely needed in order to meet setback requirements from other storage containers and vulnerable points
  - Numerous regulations that a stakeholder must comply with
  - Provided assurance that the site meets all requirements

# ZBA-03-22: Agency and Public Comments

- Town of Kingsville
  - Reviewed by technical committee
  - No objections
- Town of Essex Building and Bylaw Enforcement Division
  - No complaints regarding property have been received since 2019
- Town of Essex Fire Department
  - Applicant has provided a Fire Safety Plan upon inspection on January 27, 2022

# ZBA-03-22: Agency and Public Comments

- Essex Region Conservation Authority
  - Recommended deferral until such time an Environmental Impact Assessment is completed

# Next Steps

ZBA-03-22

# ZBA-01-22: Next Steps

1. A report to Council and proposed Bylaw will be prepared for Council's decision at the next Regular Council Meeting.
2. At the next Regular Council Meeting, Council may:
  - Approve the proposed Bylaw where notice of approval will be sent to the applicant and all persons requesting to be notified of the decision, and a 20 day appeal period takes effect.
  - Deny the proposed Bylaw where notice of denial will be sent to the applicant and all persons requesting to be notified of the decision and a 20 day appeal period takes effect.
  - Defer the decision to a later date if further information is required.

Thank You for Listening!

